IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

I.T.R. No.356 of 1995
Date of decision: 08.11.2006

The Commissioner of Income Tax, Patiala.

---Applicant

Vs.

M/s Industrial Cables (India) Ltd.

-----Respondent

CORAM:- HON'BLE MR JUSTICE ADARSH KUMAR GOEL

HON'BLE MR JUSTICE RAJESH BINDAL

Present: Dr. N.L. Sharda, Advocate
for the revenue.
Ms. Rimpi Chaudhary, Advocate for Mr. Pankaj Jain, Advocate
for the assessee.

ORDER:

Following question of law has been referred for opinion of this Court by the Income Tax Appellate Tribunal, Chandigarh Bench, Chandigarh, arising out of its order dated 21.10.1993 in I.T.A. No.284/Chandi/89 in respect of assessment year 1985-86:-

> "Whether, on the facts and in the circumstances of the case, the Tribunal was right in law in holding the first proviso to section 43 B of the Income-tax Act to be applicable retrospectively and, on that basis, allowing deduction of sales tax liability amounting to Rs. 5,70,481/- which was paid by the assessee after the close of the accounting period but before due date for filing of return u/s. 139(1) of the Income-tax Act, 1961?"

We find that the issue is covered against the revenue and in favour of the assessee by the judgment of Hon'ble Supreme Court in ***Allied Motors (P) Limited v. Commissioner of Income Tax*** (1997) 224 ITR 677.

Following the above judgment of the Hon'ble Supreme Court, we have decided the issue against the revenue and in favour of the assessee vide our order dated 5.9.2006 in ITR No.94 of 1996, ***The Commissioner of Income tax (C), Ludhiana v. M/s Avery Cycle Inds. Pvt. Limited, Ludhiana.***.

Accordingly, the question is answered against the revenue and in favour of the assessee.

(ADARSH KUMAR GOEL)
JUDGE

November 08, 2006
ashwani

(RAJESH BINDAL)
JUDGE